United States Court of Appeals

for the Second Circuit

APPELLANT'S BRIEF

Docket No. 74-1855

B
P/S

IN THE

United States Court of Appeals

For the Second Circuit

UNITED STATES OF AMERICA,

Plaintiff-Appellant,

—*vs.*—

LOIS ANN EUDELL, LINDA LEE ADLE, ELIZABETH JOY HODSON, VALERIE LYNN BROWN, MILDRED COPES, and BARBARA BROOME,

Defendants-Respondents.

Criminal No. 74-CR-26

UNITED STATES OF AMERICA,

Plaintiff-Appellant,

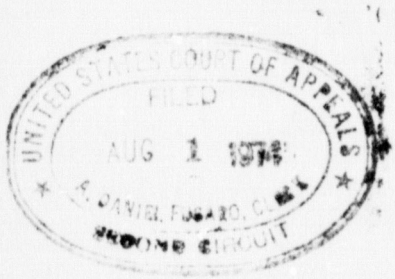
—*vs.*—

BARBARA BROOME,

Defendant-Respondent.

Criminal No. 74-CR-69

BRIEF FOR APPELLANT, UNITED STATES OF AMERICA



JAMES M. SULLIVAN, JR.
United States Attorney
Northern District of New York

ARTHUR A. CHALENSKI, JR.
Assistant U.S. Attorney
Federal Building
Syracuse, New York 13201
(315) 473-6660

Attorneys for Appellant

SPAULDING LAW PRINTING CO., SYRACUSE, N. Y.
(6682)

TABLE OF CONTENTS

Table of Authorities Cited:

Cases:

Page

Statutes:

IN THE

United States Court of Appeals

For the Second Circuit

UNITED STATES OF AMERICA,

Plaintiff-Appellant,

—*vs.*—

LOIS ANN EUDELL, LINDA LEE ADLE, ELIZABETH JOY HODSON, VALERIE LYNN BROWN, MILDRED COPES, and BARBARA BROOME,

Defendants-Respondents.

Criminal No. 74-CR-26

UNITED STATES OF AMERICA,

Plaintiff-Appellant,

—*vs.*—

BARBARA BROOME,

Defendant-Respondent.

Criminal No. 74-CR-69

BRIEF FOR APPELLANT, UNITED STATES OF AMERICA

STATEMENT OF FACTS

The defendant, BARBARA BROOME, was indicted on February 19, 1974 along with five other defendants, in a seventeen count indictment charging the stealing, forging, and cashing of United States Treasurer's checks and the conspiracy to do so. (A. 57-65). An arrest warrant was issued pursuant to the indictment, for the defendant Broome. (A. 68).

The arrest of the defendant Broome, along with several other co-defendants, took place on February 21, 1974. The agents carrying out the arrest met at the Bureau of Criminal Investigation (BCI) Building of the New York State Police, Auburn, New York, which is a substation of the New York State Police, in the morning of February 21, 1974. (A. 31, 32 and 45).

Secret Service Agents Den Haese and DeYulia were assigned to arrest the defendant Barbara Broome and arrived at her place of employment, the 4-H Farm and Home Improvement Building, 248 Grant Avenue, Auburn, New York, at approximately 11:30 or 11:35 A.M., February 21, 1974. (A. 3,4). At 11:40 A.M. Broome came to the Secret Service agents, was placed under arrest, and was orally advised of her rights at that time. (A. 4-6).1/ At the immediate onset of the arrest, the Agents advised Broome of the substance of the charges against her. (A. 15).

Broome was then transported by the Secret Service Agents to the BCI substation for the purpose of photographing and fingerprinting her and obtaining a personal history and several other forms that are normally taken. (A. 7). An additional reason for bringing the defendant to the BCI headquarters was that all of the defendants were being arrested simultaneously, and it was desired to bring them to the Magistrate's office together to avoid any undue confusion. (A. 7).

Following arrival at the BCI substation, Broome was interviewed by Government Agents. Secret Service Agents DeYulia, Den Haese, and Postal Inspector Barrow interviewed Broome in an office of the BCI substation. (A. 35). The interviewing agents were white, and Broome was black. (A. 44 and 45). The defendant Broome was 45 years old at the time of her arrest, and was employed by an extension of Cornell University, at the 4-H Farm and Home Improvement Building, in Auburn, New York. (A.9).

1/ Secret Service Form 1737 was not read to Broome at that time, but the testifying witness recalled the oral advice given verbatim, and such advice is set forth in the Appendix at page 5, line 17 through page 6, line 3.

Standard Secret Service Form 1737, "Warning and Consent To Speak" (A. 53), was read to Broome at the beginning of the interview. (A. 8). Broome read it with the Secret Service Agent while he read it out loud to her. (A. 36). Broome signed the Form 1737 at eight minutes after noon. (A. 10).

Broome signed a 2-page written confession (Government Exhibit No. 2, A. 54) at 1:15 P.M., on February 21, 1974. (A. 13). During the one hour and seven minute interval from the signing of the Warning of Rights until the signing of the confession, Agent Den Haese brought Broome some coffee or hot chocolate and lit her cigarettes. (A. 14). The agents did not offer her lunch (A. 14), but there is nothing in the record to show that Broome requested any food. Broome did not request to use a telephone (A. 25), but there was a telephone in the office where she was interviewed. (A. 36). During the course of the interview, Broome did not appear uncomfortable (A. 14) and according to agent Den Haese, she acted like a lady the whole time. (A. 16). During the course of the interview Broome did not indicate that she desired to speak to counsel, nor did she indicate that she desired to terminate the interview. (A. 16).

Court Exhibit No. 1 (A. 56) shows that the 4-H Building is located on Route 5, on the east side of Auburn, and the State Police Substation where Broome was interviewed was located on the west side of Auburn. The Courthouse and Magistrate's office are located in the approximate center of Auburn, and are marked "CH" and "M". The distance from the 4-H Building to the State Police Substation is about 6 miles (A. 8) and from the Police Substation to the Magistrate's office is about 3-1/2 or 4 miles. (A. 45). There is no testimony as to the route taken from the 4-H Building to the State Police Substation (A. 30-31).

The defendant Broome had prior experience in being questioned by the Secret Service Agents. In particular, on November 26, 1973, she was interviewed concerning the theft and cashing of Treasurer's checks and welfare checks. She was advised of her rights at that time and gave a statement, but refused to give handwriting exemplars. (A. 16-18).

On April 24, 1974, Broome was charged in a second indictment (A. 66-67) which was ordered tried together with the indictment referred to above pursuant to F.R. Crim. P. 13. The defendant Broome moved, in both cases, for the suppression of the confession obtained on February 21, 1974. (A. 68-73 and A. 74-76).

At the suppression hearing, the Government presented a Hearing Memorandum. (A. 77). At the close of the Government's case which consisted of the testimony of Secret Service Agent Den Haese and two exhibits, the Trial Court granted the motion to suppress. The findings of fact and conclusions of law are stated in the Appendix at pages 48-50.

POINT I

THE DEFENDANT BROOME KNOWINGLY AND INTELLIGENTLY WAIVED HER RIGHTS UNDER THE FIFTH AMENDMENT AND SIXTH AMENDMENT BEFORE GIVING ANY STATEMENT TO THE SECRET SERVICE AGENTS.

The defendant Broome was twice fully advised of her constitutional rights prior to giving the statement suppressed by the trial court. She was first advised of her rights orally at the time of her arrest. About twenty-eight minutes later, the arresting officer read Secret Service Form 1737 to the defendant while she read along with him.

It is beyond question that a defendant may, at any stage of the proceedings, knowingly and intelligently waive her rights under the Fifth Amendment. *Miranda* v. *Arizona*, 384 U.S. 436, 86 S.Ct. 1602 (1966) and Sixth Amendment *Escobedo* v. *Illinois*, 378 U.S. 478, 84 S.Ct. 1758 (1964), *United States* v. *Calabro*, 467 F.2d 973 (2d Cir., 1972). The efficacy of the waiver depends upon the particular facts and circumstances surrounding the case, including the background, experience, and conduct of the accused.

Nothing in the record remotely suggests that Broome did not have the necessary background and experience to effectively

waive her rights. Indeed what evidence was introduced tended to show she did have such background and experience, and her conduct did not negative this. Broome was employed by the 4-H Division of Cornell University and she was about 45 years old at the time of giving the statement. On a prior occasion, about three months before, Broome was interviewed by Secret Service Agents at which time she was fully advised of her rights. At that prior interview she refused to give handwriting exemplars, an intelligent and knowing exercise of the rights of which she had been warned. Thus, Broome well knew from past experience that she could refuse to provide information that might tend to incriminate her, and she had no reluctance to exercise her right of refusal in the presence of white Secret Service agents.

That Broome waived her rights after indictment does not affect the validity of the waiver in the instant case. *Massiah* v. *United States*, 377 U.S. 201, 84 S.Ct. 1199 (1964) cited by the trial court in support of its decision, is inapplicable to the instant case. *Massiah* involved the deliberate and deceptive elicitation of information after the defendant was indicted under circumstances *preventing* an effective exercise or waiver of the right to counsel. *United States* v. *Durham*, 475 F.2d 208 (7th Cir., 1973). The Second Circuit has repeatedly held *Massiah* inapplicable to a case where there is an effective, express waiver of the right to counsel. In *United States* v. *Barone*, 467 F.2d 247 (2nd Cir., 1972), the Court states:

> "In *Massiah* the Supreme Court held that inculpatory statements deceptively elicited from an indicted defendant in the absence of counsel were inadmissible. The circumstances of the present case are quite different from the circumstances of *Massiah*. Here there was not only no deception but an express waiver of counsel signed by Barrone. . . ."

See also *United States* v. *Cohen*, 358 F.Supp. 112 (S.D. N.Y., 1973).

While some discussion was made at the hearing and cited by the court that Broome was not specifically offered a telephone

(A. 25, 49), she was advised at the time of her arrest that, "You have the right to talk to a lawyer before we question you . . . . ." (A. 5) and "You can also stop the questioning at any time to talk to a lawyer." (A. 6). Twenty-eight minutes later, prior to the start of questioning, she was similarly advised orally and in writing pursuant to SS Form 1737. The Government submits that it was implicit in such advice that she could use any reasonable means, including a telephone, to contact a lawyer and that to hold otherwise would burden every arrest with uncertainty as to whether the warnings given were adequate.

The Court in *Miranda* believed that the warnings which it set forth would counteract pressures which may be present in a custodial interrogation situation and would safeguard an accused's Fifth and Sixth Amendment rights. Unless and until these warnings are extended by the Supreme Court, the warnings given were sufficient and enabled the defendant to intelligently and freely waive her rights.

POINT II

THE CIRCUMSTANCES SURROUNDING THE CONFESSION WERE NOT SO INHERENTLY COERCIVE AS TO REQUIRE THAT THE CONFESSION BE HELD TO BE INVOLUNTARY.

In the Second Circuit, 18 U.S.C. § 3501 has been applied as the controlling standard of admissibility of confessions, which makes voluntariness the ultimate test. *United States* v. *Johnson*, 467 F.2d 630 (2d Cir., 1972), cert. den. 410 U.S. 932, 413 U.S. 920; *United States* v. *Collins*, 462 F.2d 792 (2d Cir., 1972), cert. den. 409 U.S. 988; *United States* v. *Marrero*, 450 F. 373 (2nd Cir., 1971) cert. den. 405 U.S. 933; *United States* v. *Smollar*, 357 F.Supp. 628 (S.D. N.Y., 1972).

The trial court did not expressly find the confession to be involuntary as is required by 18 U.S.C. § 3501(a).[2/] However, the court had before it at the hearing the Government's Hearing Memorandum (A. 77) which presented to the trial court § 3501 and its application to the facts to be proved. In its findings of fact and conclusions of law (A. 48-50) the trial court referred to several circumstances as making unreasonable the delay in bringing Broome before a magistrate or court. It will be seen that these circumstances are more appropriately the type of circumstances which relate to whether Broome's confession was voluntary. From this, it can be inferred that it was implicit in the trial court's decision that the confession was involuntary and that its reference to "delay" was actually meant to refer to the voluntariness of the confession.

It is submitted, however, that the trial judge abused his discretion in failing to give proper weight to all of the circumstances put in evidence and that as a matter of law he should have held the confession was voluntarily given in accordance with 18 U.S.C. § 3501.

The Government submits that the trial court erred in determining the issue of voluntariness in three respects: first, in giving improper weight to the circumstances cited in its findings and conclusions; second, in holding the delay was unreasonable contrary to the language of 18 U.S.C. § 3501; and third, in failing to give proper weight to all of the circumstances mandated by 18 U.S.C. § 3501(b).

2/ "(a) In any criminal prosecution brought by the United States or by the District of Columbia, a confession, as defined in subsection (e) hereof, shall be admissible in evidence if it is voluntarily given. Before such confession is received in evidence, the trial judge shall, out of the presence of the jury, determine any issue as to voluntariness. If the trial judge determines that the confession was voluntarily made it shall be admitted in evidence and the trial judge shall permit the jury to hear relevant evidence on the issue of voluntariness and shall instruct the jury to give such weight to the confession as the jury feels it deserves under all the circumstances."

The trial judge specifically cited only five circumstances in his findings and conclusions: (1) delay in bringing Broome before the magistrate; (2) failure to make a telephone available to Broome; (3) the questioning was over the lunch hour; (4) Broome was surrounded by white policemen; and (5) there were no other women in the vicinity.

That the agents should not be required to point out a telephone, when a full and complete warning of rights has been given, has been presented at Point I, above.

With reference to questioning over the lunch hour, the defendant was arrested at 11:40 A.M., the waiver of rights signed at 12:08 P.M. and the statement reduced to writing and signed at 1:15 P.M. During this short time the defendant was provided a cup of coffee or hot chocolate and her cigarettes were lit by the Secret Service agent. Many persons would consider 1:15 P.M. as merely getting into the lunch hour, and it must be assumed that the substance of the confession had been orally given much earlier than 1:15. The agents in this case went out of their way to ensure Broome's comfort during the questioning. It must have been obvious to Broome that their intent was to make her comfortable, and that a request for any physical need would be fulfilled. There is nothing in the record to show that the agents observed any signs of physical discomfort in Broome, that she was hungry, or that she asked for anything that was not provided to her. It should not be necessary, in order for a confession to be held voluntary, that the questioner be a mind reader.

That the defendant is a black, or a female, cannot mean that she is inherently unable to give a voluntary statement to white males. There is no indication in the record that any advantage was made of the fact that Broome was female or a black. A more expansive view of the totality of the circumstances must be taken.

With the exception of delay, the trial court completely failed to take into account the circumstances mandated to be considered in determining voluntariness by 18 U.S.C. § 3501(b), which provides as follows:

"(b) The trial judge in determining the issue of voluntariness shall take into consideration all the circumstances surrounding the giving of the confession, including (1) the time elapsing between arrest and arraignment of the defendant making the confession, if it was made after arrest and before arraignment, (2) whether such defendant knew the nature of the offense with which he was charged or of which he was suspected at the time of making the confession, (3) whether or not such defendant was advised or knew that he was not required to make any statement and that any such statement could be used against him, (4) whether or not such defendant had been advised prior to questioning of his right to the assistance of counsel; and (5) whether or not such defendant was without the assistance of counsel when questioned and when giving such confession.

"The presence or absence of any of the above-mentioned factors to be taken into consideration by the judge need not be conclusive on the issue of voluntariness of the confession."

With reference to the five circumstances specifically mandated to be considered by Section 3501(b), the record shows that four of them were complied with in the instant case, and that the fifth one was knowingly and intelligently waived. Comparing the facts to the mandated circumstances in the order they are mentioned in Section 3501(b), the time elapsing between arrest and arraignment was about one-half of the time allowed pursuant to Section 3501(c), and the time between arrest and the giving of the confession was about one-quarter of the time allowed. The defendant was advised of the nature of the charge at the time of arrest, only twenty-eight minutes prior to the interview. The defendant was advised of her rights, which included that she had "the right to remain silent" and that "anything you say [can] [could] be used against you in court, or other proceedings", on two occasions: twenty-eight minutes prior to beginning the questioning and at the commencement of the questioning. Such advice, on both occasions, also included in detail the right to the assistance of counsel. This advice covered advising Broome of her right to talk to a lawyer before the agents questioned her, and to have him with her during questioning, to have one appointed and to stop questioning to talk to a lawyer. (See A. 5-6 and A. 53). Broome knowingly and intelligently waived the assistance of counsel during the questioning as described in Point I above.

With reference to any delay in bringing Broome before a magistrate or a court, the trial judge failed to give effect to 18 U.S.C. § 3501(c) which provides as follows:

> "(c) In any criminal prosecution by the United States or by the District of Columbia, a confession made or given by a person who is a defendant therein, while such person was under arrest or other detention in the custody of any law-enforcement officer or law-enforcement agency, shall not be inadmissible solely because of delay in bringing such person before a magistrate or other officer empowered to commit persons charged with offenses against the laws of the United States or of the District of Columbia if such confession is found by the trial judge to have been made voluntarily and if the weight to be given the confession is left to the jury and if such confession was made or given by such person within six hours immediately following his arrest or other detention: *Provided*, That the time limitation contained in this subsection shall not apply in any case in which the delay in bringing such person before such magistrate or other officer beyond such six-hour period is found by the trial judge to be reasonable considering the means of transportation and the distance to be traveled to the nearest available such magistrate or other officer."

Broome confessed well within the six-hour limitation set out in Section 3501(c). In *United States* v. *Collins, supra* a delay of 26 hours between arrest and arraignment was approved under § 3501 as due solely to routine processing. The defendant argued that the delay combined with his youth (19 years), drug addiction, and initial absence of counsel, made the confession involuntary. The court held that the circumstances of the delay were noncoercive and that Collins was not subjected to harassing interrogation. No advantage was taken of the defendant's youthful naivete, a narcotic substitute was given him, there was no intimidation by police or mistreatment of any sort. The court stated that, in these circumstances, where the questioning of the defendant was only sporadic and on each occasion he was advised of his rights, the confession was voluntary.

While the applicability of Section 3501(c) and other constitutional and statutory standards to the delay in the instant case will be dealt with in more detail in Point III following, the

Government submits that the Court need go no further than Section 3501(c) to hold that the delay in the instant case was not, as a matter of law, unreasonable. In all other respects in light of the totality of the circumstances, the confession should have been found to be voluntarily made and a product of the defendant's free will not overborne by coercive circumstances.

POINT III

THE TRIAL COURT ERRED IN HOLDING THAT THE TIME BETWEEN THE ARREST OF THE DEFENDANT AND THE SIGNING OF HER CONFESSION CONSTITUTED UNREASONABLE DELAY.

The trial court expressly based its suppression of the confession on unreasonable delay in bringing Broome before the magistrate or the court, citing the *McNabb-Mallory* Rule[3/] and *Massiah* v. *United States*, supra.

As discussed in Point II above, the trial court's decision that there was unreasonable delay was in error for failure to comply with the particular requirements of § 3501(c). In addition, however, there was not the type of delay here as would have been held to be unreasonable under the standards existing prior to the enactment of 18 U.S.C. § 3501.

The *McNabb-Mallory* Rule was based on Rule 5(a) of the Federal Rules of Criminal Procedure and its statutory forerunners.

Rule 5(a) requires that a person arrested under a warrant issued upon a complaint or arrested without a warrant be taken without "unnecessary delay" to a federal magistrate. Rule 5(a) does not, however, relate to arrests following indictment as in the

---

3/ *Mallory* v. *United States*, 354 U.S. 449, 77 S.Ct. 1356, 1 L.Ed. 1479 (1957). *McNabb* v. *United States*, 318 U.S. 332, 63 S.Ct. 608, 87 L.Ed. 819 (1943) reh. denied.

instant case. Instead, F.R.Crim. P. 9(a) is applicable to this case, and it is submitted that the underlying rationale for the *McNabb-Mallory* Rule is substantially less compelling when the arrest is made following indictment.

The reasons for the requirement of arraignment without unnecessary delay and the exclusionary rule of *McNabb-Mallory* are so that the suspect can be advised of his rights by the magistrate, and so that the probable cause issue may be promptly determined. Neither of these reasons apply here. Compliance with the requirements of *Miranda* by the arresting officer has eliminated the first problem envisioned under the McNabb rule, and in the instant case, the defendant was apprised of her rights orally and in writing before confessing. The indictment provided probable cause for the arrest, so the magistrate did not have to determine it.

Rule 9(c)(1) requires that the arrested person be brought "promptly" before the court or a magistrate. There have been few cases in any of the circuits construing this rule, but the case of *United States* v. *Smith*, 379 F.2d 628 (7th Cir., 1967), is substantially in point with the instant case. In *Smith*, the defendant was arrested after indictment at 10:00 A.M. He was taken to the FBI office for routine processing, where he was advised of his rights. He was taken to the District Court at about 11:30 A.M. The Seventh Circuit stated:

> "[The defendant wants the Court to] adopt an exclusionary rule for violations of Rule 9 and the forthwith requirement of the warrant. The 'violation' asserted is that the FBI agent failed to bring him directly to the Marshal's office but instead brought him to the FBI office for processing.
>
> "The warrant does not define 'forthwith' nor does Rule 9 define 'promptly'. The courts must determine in each case whether a delay is unreasonable and thus violative of the rule. We hold that the agents here acted 'without unnecessary delay' and that this meets the legal requirement." (379 F.2d 633)

It should be noted that the warrant in the *Smith* case used the word "forthwith", while in the instant case, the warrant contains no such command.

The court in *Smith* did not find that "routine processing" including an interview by FBI agents constituted unnecessary delay in violation of Rule 9. The question of "routine processing" is at the heart of the instant case, since the record provides ample evidence that Broome was interviewed only as an incident to what has traditionally been held to be allowable routine processing. In particular, the indictment under which Broome was arrested, named six co-defendants. She was taken to the Bureau of Criminal Investigation of the New York State Police for processing. This processing included photographing the defendant, taking her fingerprints and personal history, and completing several other forms. Broome and the other five defendants were being arrested simultaneously at different places around the City. (A. 46). Under these circumstances, the BCI headquarters was a logical and reasonably central place to meet with the prisoners, to process them, and to gather them to bring them to the magistrate's office together to avoid any undue confusion. (A. 7).

"Routine processing" prior to presentment to the magistrate, or "booking", has been approved in many Second Circuit cases and even in *Mallory* itself. *United States* v. *Barrera*, 486 F.2d 333 (2d Cir., 1973) [delay of over six hours approved if for "routine processing"]; *United States* v. *Ramirez*, 482 F.2d 807 (2d Cir., 1973) [Statement made to Assistant U. S. Attorney just prior to arraignment and appointment of counsel]; *United States* v. *Ortega*, 471 F.2d 1350 (2d Cir., 1972) [36 hour delay, including overnight detention and questioning by Assistant U. S. Attorney prior to arraignment though magistrate was already available]; *United States* v. *Candella*, 469 F.2d 173 (2d Cir., 1972) [4 hour delay approved for travelling to Alcohol, Tobacco & Firearms Office and being fingerprinted and photographed before being arraigned]; *United States* v. *Johnson*, 467 F.2d 630 (2d Cir., 1972) [7 hour delay including questioning by FBI agents prior to presentment to the magistrate]; *United States* v. *Collins*, 462 F.2d 792 (2d Cir., 1972) [26 hour delay approved including 3-1/2 hours of processing at the stationhouse, the United States Attorney's office and FBI headquarters]; *United States* v.

Marrero, 450 F.2d 373 (2d Cir., 1971) [16-1/2 hour delay approved including trip to Bureau of Narcotics for processing and interview with Assistant U. S. Attorney prior to arraignment]; *United States* v. *Price*, 345 F.2d 256 (2d Cir., 1965) [12 hour delay approved including processing at the Alcohol, Tobacco and Tax Unit, overnight lodging and questioning the next day by the Assistant U. S. Attorney prior to arraignment although a magistrate was already available].

As a final issue, even if the *McNabb-Mallory* Rule applied to our case, Circuit Courts of Appeals have held that a valid waiver under *Miranda* also waives the requirements of prompt arraignment under the *McNabb-Mallory* Rule. *United States* v. *Lopez*, 450 F.2d 169 (9th Cir., 1971); *Pettyjohn* v. *United States*, 419 F.2d 651 (D.C. Cir., 1969); *United States* v. *Woods*, 468 F.2d 1024 (9th Cir., 1972); *O'Neal* v. *United States*, 411 F.2d 131 (5th Cir., 1969); and *United States* v. *Cluchette*, 465 F.2d 749 (9th Cir., 1972). The vital question in those cases, as it should be in the instant case, was whether the defendant voluntarily and understandingly waived his *Miranda* rights. It has been held that the burden of proving "unreasonable delay" under Rule 5(a) lies with the defendant. *United States* v. *Halbert*, 436 F.2d 1226 (9th Cir., 1970). The Government contends that the burden should so lie with respect also to the "promptness" requirement of Rule 9(c)(1), and submits that the defendant has not met that burden in the instant case.

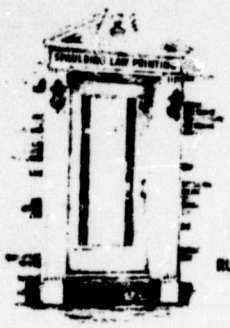
CONCLUSION

APPELLANT RESPECTFULLY REQUESTS THAT THE ORDER OF THE TRIAL COURT SUPPRESSING THE CONFESSION OF THE DEFENDANT BROOME BE REVERSED.

Respectfully submitted,

JAMES M. SULLIVAN, JR.
United States Attorney for the
Northern District of New York
Federal Building
Syracuse, New York 13201

ARTHUR A. CHALENSKI, JR.
Assistant United States Attorney
Northern District of New York
Of Counsel.



Records and Briefs for State and Federal Courts

SPAULDING LAW PRINTING CO. ESTABLISHED 1881

313 MONTGOMERY STREET • SYRACUSE, N.Y. 13202 • PHONE AC 315 HA2-4805

RUSSELL D. HAY, owner

AFFIDAVIT OF SERVICE

RE: UNITED STATES OF AMERICA v. BARBARA BROOME, et al.

STATE OF NEW YORK)
COUNTY OF ONONDAGA) ss.:
CITY OF SYRACUSE)

EVERETT J. REA , being duly sworn, deposes and says:

That he is associated with Spaulding Law Printing Company of Syracuse, New York, and is over twenty-one years of age.

That at the request of JAMES M. SULLIVAN, JR., United States Attorney, Attorney for Appellant,

(s)he personally served three (3) copies of the printed ~~[Record]~~ [Brief] and two (2) copies of Appendix of the above-entitled case addressed to:

CHARLES W. AVERY, ESQ.
188 GENESEE ST.
P.O. BOX 684
AUBURN, N. Y. 13021

by depositing true copies of the same securely wrapped in a postpaid wrapper in a Post Office maintained by the United States Government in the City of Syracuse, New York on July 31, 1974.

Everett J. Rea

Everett J. Rea

Sworn to before me this 31st
day of July , 1974.

Ruth A. Moloughney

Commissioner of Deeds

AFFILIATED WITH
DAILY RECORD CORP.
ROCHESTER, N. Y.